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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,950	01/17/2001	Francesco Natalini	108041-0012	6194

24267   7590   07/10/2003

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

EXAMINER
WEST, JEFFREY R

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)	
Advisory Action	09/761,950	NATALINI ET AL.	
	Examiner	**Art Unit**	
	Jeffrey R. West	2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<div align="center">PERID FOR REPLY [check either a) or b)]</div>

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
        NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

8. ☒ The proposed drawing correction filed on *17 June 2003* is a)☐ approved or b)☒ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

<div align="right">MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800</div>

Continuation of 5: As a preliminary matter, Applicant addresses the Examiner's comments concerning the particular notification routines and subroutines performed by the Conkright system stating, "[i]n the earlier response we pointed out that the Conkright patent does not explain what occurs in its notification routine and/or its alert notification subroutine. . . .the Examiner points out, Conkright states at Column 4, lines 48-51, "if the received message was not sent by a customer, the computer determines, at decision block 60, whether it needs to perform an alert notification subroutine." The language, however, does not clarify what occurs during the subroutines or even under what conditions the subroutine is performed. Accordingly, we continue to find confusing in the patent the description (of lack thereof) of the notification routine and subroutines." The Examiner contends that the explanation was presented in response to Applicant's argument that the "'332 patent does not describe the steps included in the notification routine or subroutine, and thus, it is not clear who is notified of the failure." Therefore, as presented, Conkright describes determining if the message was sent by a customer/user and if not, using the alert notification subroutine to remedy this situation and alert the customer/user.

Applicant then argues, "there is no teaching or suggestion to look to the Conkright system, which polls electrical apparatus in various locations, when designing systems for servicing household appliances." The Examiner maintains that the invention of Conkright is not limited to its intended use and does disclose monitoring household systems (column 1, lines 60-61).
Applicant argues that "as set forth in Column 8, lines 8-27, the Conkright system retains a steady state current level determined during calibration operations and thereafter, periodically tests if the apparatus is drawing current at the steady state level, in order to determine if the apparatus has failed. Accordingly, Conkright can not analyze the changes in the operations of the apparatus over time." The Examiner maintains that the invention of Conkright is not included to teach determining changes in the operation of the apparatus over time but instead the invention of Vines is included to teach collecting and storing sensed data in order to analyze changes in the operation in order to assure timely maintenance as a means to avoid failure. Applicant argues a similar position with respect to Manson stating that the "Manson system does not retain functional data to determine if the appliance requires service to avoid failure."

Applicant then argues that there is no motivation to combine the inventions of Conkright, Manson, and Vines for various reasons including the distance between the monitoring system and the device being monitored as well as the type of apparatus being monitored. The Examiner contends that all of the cited prior art is concerned with the problem of remote monitoring/diagnostics and, as stated in the previous Office Action, contain sufficient motivation to combine their teachings. Further the Examiner regards the specific type of device being monitored as a recitation of the intended use of the claimed invention. This recitation must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. (See In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458, 459 (CCPA 1963)). In the instant application, the structures could reasonably be applied to a plurality of devices in different mechanical systems.

Applicant then argues that "even if the teaching of all three patents could be combined, they do not teach or suggest a system for servicing household appliances in which monitoring subsystems continuously (a) retain and analyze functional data from the respective household appliances, (b) determine if any appliance is in need of attention to avoid failure, and (c) transmit messages and associated functional data to a remote center for further processing. Further, such a combination does not teach or suggest a system that includes a remote center that further analyzes the data and messages and contacts appropriate users and/or service people to inform them of the attention that is required to avoid the failure of one or more of the respective appliances. Accordingly, the three patents in combination do not teach or suggestion the invention as set forth in independent claims 1, 12 and 24 and the claims that depend therefrom." As noted above, the invention of Conkright teaches obtaining and analyzing functional data from any of a plurality of devices. Conkright also teaches, upon the detection of a failure, transmitting the result of the analysis as an alarm message to the host computer (column 8, lines 17-44), teaches a memory at the remote host computer for further storing and processing the functional data (column 2, lines 21-34), and teaches using the host computer to perform and alert notification subroutine to notify the user of the failure (column 3, lines 61-65 and column 4, lines 43-54). Vines, as noted above, teaches modifying the invention of Conkright to include receiving functional data at a remote center for obtaining and storing data in order determine the need for maintenance to prevent failure (column 5, lines 30-40). Finally, Applicant argues the combination of the remaining references for not providing sufficient motivation and/or not teaching determining the need of service to prevent failures. The Examiner contends that the further references are concerned with problem of remote monitoring/diagnostics and, as stated in the previous Office Action, contain sufficient motivation to combine their teachings. Also, as noted above, the further references are not included to teach determining the need of service to prevent failures because this feature is taught by the invention of Vines.

Continuation of 10: With respect to the drawings, the Examiner maintains that the specification defines reference number "220" as a sensor while, in the top half of figure 2, it is unclear to which component reference number "220" is labeling.
The Examiner also maintains that Applicant has not corrected the objection to the abstract to make its length within the acceptable limits.